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EXAMINER	
ASHBURN, STEVEN L	
ART UNIT	**PAPER NUMBER**
3714	11

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/688,441	Applicant(s) WEBB ET AL.	
	Examiner Steven Ashburn	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with th correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 December 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) *29-33* is/are allowed.

6)☐ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 October 2000* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

MARK SAGER
PRIMARY EXAMINER

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following features must be shown or canceled from the claims:

a. A table of numbers that designate how many rounds the player has in which to select from the plurality of symbols when said item is assigned to a percentage of symbols in that group.

b. A step of selecting the number of rounds to be played from a table associated with a percentage of symbols that have an assigned item.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. No new matter should be entered.

Claim Objections

Claims 14-21 and 24 are objected to because the language is unclear. For example, Claim 14 states:

> The method of claim 13, which includes the step of selecting a number of player selections, said number defining how many rounds the player plays with a percentage of symbols that have an assigned item.

It is unclear whether the phase "how many rounds the player plays with a percentage of symbols that have an assigned item" is operative or merely descriptive of the "number defining how many rounds the player plays". For the purposes of examination, the examiner assumes the latter. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 14- 21 and 24 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

In particular, the specification does not describe randomly selecting the number of rounds a player may play. Furthermore, the specification does not describe any association between the number of rounds and the percentage of symbols that have an assigned item.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 13 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Barrie, GB 2,144,644 A (Mar. 13, 1985).

Barrie discloses a gaming machine having player selections over multiple rounds. In particular it provides a dramatic narration during which a player is invited to make choices by actuating player-operable controls, the outcome of each player choice, which is governed by chance, being shown by dramatic scenes which are part of the narration. *See abstract.* The player choice may result in dramatic scenes on a screen showing that the player has won a reward, has lost, or has his choice of a reward or an

opportunity to make a further choice with the possibility of winning a higher reward. *See id.* The individual outcomes are determined with the aid of a random number generator. *See id.*

In regards to claims 1 and 13, *Barrie* teaches the following features of the claimed invention:

a. Displaying a plurality of symbols on a display of the gaming device. *See fig. 3(42).*

b. A plurality of rounds. *See fig. 9, 9(a); p. 2:23-76.*

c. Means for enabling a player to select one of the symbols in each of the rounds. *See p. 1:42-47.*

d. A display device operable for displaying the plurality of symbols. *See fig. 1(14).*

e. A controller operable with the selection means and the display device to randomly assign an item to at least one, a plurality or all of the plurality of symbols, to enable to player to select one of the symbols in each of the rounds, and to provide an award to the player if thee player selects one of the symbols having an assigned item. *See fig. 2; p. 1:48-54, 2:6-22.*

f. Selecting a prize and providing the prize to the player chooses a symbol having the assigned item. *See id.*

Thus, the claim is unpatentable because *Barrie* anticipates every feature.

In regards to claim 2, *Barrie* additionally teaches having the controller assign an item to a plurality of symbols in each round. *See fig. 3-9, p. 1:55-69, 3:1-19.*

In regards to claim 22, *Barrie* additionally teaches revealing that a symbol has an assigned item when the player selects a symbol having the assigned item. *See id.*

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Barrie*.

In regards to claim 23, the multi-round gaming device suggested by *Barrie* describes all the features of the instant claims except revealing that all symbols having an assigned item indeed have an assigned item. Regardless of the deficiency, the feature was known in the art at the time of the invention and would have been obvious to an artisan.

It is notoriously well known in the art to reveal unselected selections from a set of hidden selections to demonstrate that a selection associated with an item actually existed. Revealing unselected items assures players that the game is not a scam such as a "Shell Game" or "Three-Card-Monty" wherein there is actually no winning outcome. Furthermore, revealing unselected items serves to entice players by satisfying their curiosity in forgone possibilities.

Thus, in multi-round gaming device described by *Barrie*, wherein players attempt to select items hidden behind a plurality of symbols, it would have been obvious to an artisan at the time of the invention to reveal that all symbols having an assigned item indeed have and assigned item to demonstrate the game is not a scam and entice players into further attempts by revealing the forgone selections. The modification would enhance the gaming device by increasing players' feelings of fairness and excitement and thereby increase operator revenue.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Barrie* in view of Demar et al., U.S. Patent 6,203,429 B1 (Mar. 20, 2001)

In regards to claim 3, *Barrie* additionally teaches a list of items that are randomly associated with selections. *See p. 3:1-19.* However, the reference does not teach selecting the items from a table. Regardless of the deficiencies, these features were known in the art at the time of the invention and would have been obvious to an artisan in view of *Demar*.

Demar teaches a gaming device in which items are randomly selected from a table. *See fig. 13(a,b), 14, 15.* By arranging the items in a table, the device provides a means to associate the item with another value. For example, figure 13(a) illustrates a table associating items with probabilities wherein each item has a different probability of occurring.

In view of *Demar*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gaming device described by *Barrie*, wherein different items are randomly associated with selections, to add the feature of selecting the items from a table. As taught by *Demar*, the modification would enhance by provides a means to associate the item with another value and thereby controlling probability of occurrence of each item.

In regards to claim 4, *Demar* additionally teaches a table of randomly selectable items wherein at least one item is adapted to be randomly selected more often than another item. *See fig. 13(a,b), 14, 15.*

Claims 14, 17 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Barrie* in view of Yoseloff et al., U.S. Patent 6,427,208 B2 (Oct. 29, 2002).

In regards to claim 14, 17 and 24: *Barrie* describes all the features of the instant claims except selecting the number of rounds the player has in the selection game. Regardless of the deficiencies, these features were known in the art at the time of the invention and would have been obvious to an artisan in view of *Yoseloff*.

Yoseloff describes an analogous gaming device having multiple rounds in which the number of rounds the player has in the game are randomly determined prior to initiating the game. *See col. 4:36-50.* As a result, the length of the game is limited without being predictable by the player.

In view of *Yoseloff*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gaming device described by *Barrie* to add the feature of employing a table of numbers to designate the number of rounds the player has in the selection game. As taught by *Yoseloff*, randomly determining the number of rounds prior to initiating a game allows operators to limit the length of the game without being predictable by the player. As a result, operator's revenue will be preserved while enhancing the enjoyment of players.

In regards to claim 25, *Barrie* additionally teaches selecting a prize. *See fig. 2; p. 1:48-54, 2:6-22.*

In regards to claim 26, *Barrie* additionally teaches providing the prize to the plaer if the player chooses a symbol having an assigned item. *See id.*

In regards to claim 27, *Barrie* additionally teaches revealing that a symbol has an assigned item when the player selects a symbol having the assigned item. *See id.*

In regards to claim 28, the gaming device suggested by the combination of *Barrie* with *Yoseloff* describes all the features of the instant claims except revealing that all symbols having an assigned item indeed have an assigned item. Regardless of the deficiency, the feature was known in the art at the time of the invention and would have been obvious to an artisan.

It is notoriously well known in the art to reveal unselected selections from a set of hidden selections to demonstrate that a selection associated with an item actually existed. Revealing unselected items assures players that the game is not a scam such as a "Shell Game" or "Three-Card-Monty" wherein there is actually no winning outcome. Furthermore, revealing unselected items serves to entice players by satisfying their curiosity in forgone possibilities.

Thus, in multi-round gaming device suggested by the combination of *Barrie* with *Yoseloff*, wherein players attempt to select items hidden behind a plurality of symbols, it would have been obvious to an artisan at the time of the invention to reveal that all symbols having an assigned item indeed have and assigned item to demonstrate the game is not a scam and entice players into further attempts by revealing the forgone selections. The modification would enhance the gaming device by increasing players' feelings of fairness and excitement and thereby increase operator revenue.

Claims 5-10 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Barrie* in view of *Demar*, as applied to claim 3 above, in further view of *Yoseloff*.

In regards to claim 5, 15, 18, 20, the gaming device suggested by the combination of *Barrie* with *Demar* describes a gaming device wherein different items are randomly selected from a table. *See supra.* *Barrie* additionally, teaches a gaming device in which a player selects symbols in a limited number of rounds. *See fig. 9, 9(a); p. 2:23-76.* Hence, it was known in the art at the time of the invention to provide multi-round selection games. Furthermore, *Demar* describes a gaming device in which items are randomly selected from a table providing a means to associate the item with another value. *See fig.*

13(a)(,b), 14, 15. Thus, it was known in the art at the time of the invention to employ a table of numbers to designate a value in a gaming device. Thus, the combination of *Barrie* with *Demar* describes all the features of the instant claims except employing the table of numbers to designate the number of rounds the player has in the selection game. Regardless of the deficiencies, these features were known in the art at the time of the invention and would have been obvious to an artisan in view of *Yoseloff.*

Yoseloff describes an analogous gaming device having multiple rounds in which the number of rounds the player has in the game are randomly determined prior to initiating the game. *See col. 4:36-50.* As a result, the length of the game is limited without being predictable by the player.

In view of *Yoseloff*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gaming device suggested by the combination of *Barrie* with *Demar*, wherein different items are randomly selected from a table, to add the feature of employing a table of numbers to designate the number of rounds the player has in the selection game. As taught by *Yoseloff*, randomly determining the number of rounds prior to initiating a game allows operators to limit the length of the game without being predictable by the player. As a result, operator's revenue will be preserved while enhancing the enjoyment of players.

In regards to claim 6, 16 and 19 *Demar* additionally teaches a table of randomly selectable items wherein at least one number is adapted to be randomly selected more often than another number. *See fig. 13(a,b), 14, 15.*

In regards to claim 7, *Demar* additionally teaches a plurality of tables of numbers. *See id.*

In regards to claim 8, *Demar* additionally teaches a table of randomly selectable items wherein at least one number is adapted to be randomly selected more often than another number. *See id.*

In regards to claim 9, *Demar* additionally teaches the gaming device suggested by the combination of *Barrie* with *Demar* and *Yoseloff* teaches all the features of the claim except having the a quantity of tables of numbers equaling the quantity of symbols in a round. Regardless of the deficiencies, these features were known in the art at the time of the invention and would have been obvious to an artisan.

Demar describes a gaming device in values for some items are randomly selected from a table providing a means to associate the item with another value such as an occurrence rate in order to provide a variable outcome. *See fig. 13(a)(,b), 14, 15.*

In view of *Demar*, it would have been obvious to an artisan at the time of the invention to modify the gaming device suggested by the combination of *Barrie* with *Demar* and *Yoseloff*, wherein outcomes are randomly distributed, to add the feature of having the a quantity of tables of numbers equaling the quantity of symbols in a round to provide a variable outcome for each item and thereby enhance players' enjoyment by making the game less predictable.

In regards to claim 10, *Demar* additionally teaches a table of randomly selectable items wherein at least one number is adapted to be randomly selected more often than another number. *See id.*

In regards to claim 21, the combination of *Barrie* with *Demar* and *Yoseloff* describes all the features of the claims except summing a plurality of selected numbers. Regardless, this feature would be obvious to an artisan.

One of ordinary skill in the art would implicitly possess knowledge of basic probability. Thus, the artisan would know that the expected probability of a selection can be changed by making more than one selection from a pool of selections and summing the result. Thus, in this case, the combination of

Barrie with *Demar* and *Yoseloff*, wherein the number of rounds is selected from a table, it would have been obvious to add the feature of summing a plurality of selected numbers to change the expected probability of the number of rounds.

Allowable Subject Matter

Claims 29-33 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9302 for regular communications and 703 872 9303 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1078.

S.A.
April 2, 2003

MARK SAGER
PRIMARY EXAMINER